

HOUSE BILL No. 1155

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12.1.

Synopsis: Tax abatements. Provides that the determination of the metropolitan development commission in Marion County to provide a property tax abatement for real property must be approved by the city-county council if the abatement is for a facility at which the estimated average salary of the employees whose jobs are being created or saved by the redevelopment or rehabilitation of the real property is, after excluding the salaries of the ten highest paid individuals employed at the facility, less than the median salary paid in the county as published annually by the United States Bureau of Labor Statistics.

Effective: July 1, 2009.

Pryor

January 12, 2009, read first time and referred to Committee on Government and Regulatory Reform.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1155

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-12.1-2.5, AS AMENDED BY P.L.154-2006,
2 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 2.5. (a) If a designating body finds that an area in
4 its jurisdiction is an economic revitalization area, it shall either:

- 5 (1) prepare maps and plats that identify the area; or
6 (2) prepare a simplified description of the boundaries of the area
7 by describing its location in relation to public ways, streams, or
8 otherwise.

9 (b) After the compilation of the materials described in subsection
10 (a), the designating body shall pass a resolution declaring the area an
11 economic revitalization area. The resolution must contain a description
12 of the affected area and be filed with the county assessor. A resolution
13 adopted after June 30, 2000, may include a determination of the
14 number of years a deduction under section 3, 4.5, or 4.8 of this chapter
15 is allowed.

16 (c) After approval of a resolution under subsection (b), the
17 designating body shall do the following:



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(1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.

(2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the economic revitalization area is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement containing substantially the same information as a statement of benefits filed with the designating body before the hearing required by this section under section 3, 4.5, or 4.8 of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. After considering the evidence, the designating body shall take final action determining whether the qualifications for an economic revitalization area have been met and confirming, modifying and confirming, or rescinding the resolution. **Except as provided in subsection (f),** this determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

(d) A person who filed a written remonstrance with the designating body under this section and who is aggrieved by the final action taken may, within ten (10) days after ~~that the final action of the designating body or the fiscal body under subsection (f),~~ initiate an appeal of that action by filing in the office of the clerk of the circuit or superior court a copy of the order of the designating body **or fiscal body** and the person's remonstrance against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of appeal that the court may hear is whether the proposed project will meet the qualifications of the economic revitalization area law. The burden of proof is on the appellant.

(e) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal, and may confirm the final action of the designating body **or fiscal body** or sustain the appeal. The judgment of

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the court is final and conclusive, unless an appeal is taken as in other civil actions.

(f) A determination made under subsection (c) after June 30, 2009, by the designating body of a county containing a consolidated city must be approved or rejected by the county fiscal body if:

(1) the resolution awards a deduction under section 3 of this chapter for the redevelopment or rehabilitation of real property; and

(2) the redeveloped or rehabilitated real property is a facility at which the estimated average salary of the employees described in the statement of benefits submitted under section 3(a)(2) of this chapter is, after excluding the salaries of the ten (10) highest paid individuals employed at the facility, less than the median salary paid in the county as published annually by the United States Bureau of Labor Statistics.

The decision of the county fiscal body to approve or reject the designating body's determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

SECTION 2. IC 6-1.1-12.1-3, AS AMENDED BY P.L.99-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be

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inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). **Subject to section 2.5(f) of this chapter**, the designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area

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pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.

(2) Country club.

(3) Massage parlor.

(4) Tennis club.

(5) Skating facility (including roller skating, skateboarding, or ice skating).

(6) Racquet sport facility (including any handball or racquetball court).

(7) Hot tub facility.

(8) Suntan facility.

(9) Racetrack.

(10) Any facility the primary purpose of which is:

(A) retail food and beverage service;

(B) automobile sales or service; or

(C) other retail;

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unless the facility is located in an economic development target area established under section 7 of this chapter.

(11) Residential, unless:

(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;

(B) the facility is located in an economic development target area established under section 7 of this chapter; or

(C) the area is designated as a residentially distressed area.

(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:

(A) was eligible for tax abatement under this chapter before July 1, 1995;

(B) is described in IC 7.1-5-7-11; or

(C) operates a facility under:

(i) a beer wholesaler's permit under IC 7.1-3-3;

(ii) a liquor wholesaler's permit under IC 7.1-3-8; or

(iii) a wine wholesaler's permit under IC 7.1-3-13;

for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

(1) Elderly persons who are predominately low-income or moderate-income persons.

(2) Persons with a disability.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

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